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Federal Communications Commission
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October 1, 2004

ORIGINAL

Via electronic mail and U.S. mailMr. Bruce Franca, Deputy Chief
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Further comments of the Power Line Communications Association in ET Docket 04-37

Dear Mr. Franca:

On behalf of the Power Line Communications Association ("PLCA"), we submit the following supplement to its comments in the above-referenced proceeding.

PLCA recognizes that potential radio frequency interference by Broadband over Power Line ("BPL") devices to licensed services, particularly the Amateur Radio Service, has become a primary issue in this proceeding. PLCA is concerned that a series of *ex parte* filings made with the Commission may jeopardize the Commission's vision of creating a third, viable broadband alternative for delivering cost affordable and highly available broadband services throughout the nation.

PLCA supports the Commission's desire to bring another source of broadband to market through this proceeding. This could result in wider availability and better pricing for underserved markets and the technologically disenfranchised. PLCA fully supports adoption of a method to resolve incidents of actual, harmful interference. However, the resolution method may materially impact whether or not the Commission's vision is realized.

The Commission's challenge is to balance the rights of its existing licensees with the practicality and economic incentive (i.e. the business case) for commercial BPL operators to deploy the technology and provide cost effective solutions to consumers. It is important to note that BPL operators may or may not be an electric utility, and might be an independent operator or franchisee. Burdensome over-protection of licensed services could reduce the attractiveness for utilities, operators, investors, and local governments to deploy BPL.

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BPL is an example of a service that should be protected under the Commission's Nascent Services Doctrine. Protection methods such as *a priori* notching, placing equipment authorization burdens on the BPL operator and prior deployment notice requirements are examples of premature and unnecessary regulatory measures that would impair this service during the formative stages of its development.

Interference Resolution

In lieu of such steps, PLCA makes the following recommendations to mitigate the risk and cure legitimate instances of interference through a meaningful resolution process, while preserving the incentives to deliver robust, affordable services to consumers. PLCA offers remedies that restore the balance of protection and adequately enable all parties to respond to disputes as they arise in a rational, clear, and concise manner.

We offer the following interference dispute resolution process which strikes a balance between rights and concerns that will allow operators to respond quickly to interference issues:

1. Complaints should be filed with the BPL operator (which may not be the electric utility whose wires support the service).
2. Complaints must include sufficient information necessary to successfully identify and resolve the incident:
 - a. Location (e.g. street address, nearest major road intersection, latitude/longitude, utility pole number or other description) where the incident was experienced.
 - b. Time and date of the incident.
 - c. Approximate duration of the incident (e.g. 20 seconds, 5 minutes, 4 hours, continuous) and repetitiveness (e.g. one-time, daily, once a week, constant)
 - d. Spectrum frequency and frequency band(s) affected by the incident (wherever known).
 - e. The approximate number of hours per year the complainant operates on the affected frequency(ies) within 50 meters of the Location.
3. The BPL operator must investigate the complaint and respond in writing not later than 30 days from receipt of the complaint, and provide supporting details.
4. If the dispute involves the Amateur Radio Service and in the event that the dispute is not resolved, then PLCA recommends the National Association for Amateur Radio (ARRL) should

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name a national and local resource to work with the BPL operator and the complainant to facilitate resolution of the dispute.

Database Requirement

While PLCA supports the FCC's goal of facilitating interference resolution, the proposal for public disclosure of the BPL device locations through maintenance of a public database creates a concern that such a requirement would be contrary to national security interests, a violation individual privacy rights, and anti-competitive.

1. In recognition of the security threats associated with improper disclosure of infrastructure location/vulnerability, the Department of Homeland Security is developing a class of information known as "Sensitive." Sensitive information is not to be publicly disclosed and includes electrical infrastructure, equipment, and location information. Since some BPL architectures include deployment of BPL devices at most or all electrical equipment components (e.g. substations, transformers, switches, fuse cabinets, residential and commercial electric meters), public disclosure of BPL device locations would compromise the electric grid's Sensitive information. The result would be increased vulnerability of the electrical grid and reluctance of electric utilities to allow deployment of BPL equipment.

Furthermore, at least one commercial BPL network has received requests from the local police department to deploy video surveillance cameras under a grant from the Department of Homeland Security. These cameras would require a BPL device to be collocated with electric grid elements, which once again would be compromised by public disclosure.

2. Some BPL architectures require deployment of BPL devices at the customer's electric meter. Public disclosure of these devices will compromise the customer's privacy rights.

3. Public disclosure of BPL device locations reveals exactly where and to whom BPL service is being offered. This information will unfairly provide competitors (e.g. ILEC's, CLEC's, cable operators, traditional ISP's, and DSL providers) with highly confidential competitive information, thus undermining the market forces that result in more options and lower costs for the consumers.

In consideration of these undismissable issues, PLCA recommends:

1. The BPL operator should be required to keep records of deployed BPL devices, including clearly discernible deployment location information.

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2. Disclosure of the contents of these records should be limited to appropriate FCC officials, under appropriate confidentiality requirements. Furthermore, limited disclosure of BPL equipment locations would be appropriate if necessary to resolve legitimate interference complaints in conjunction with the formal dispute resolution process. Such limited disclosure might include location information of the BPL devices in the immediate area surrounding the Location of the incident, and only that information which does not violate the privacy rights of individual customers by clearly allowing those customers to be identified. Furthermore, the rights of the BPL operator must be protected via standard commercial non-disclosure terms.

3. If the electric utility is not the BPL operator, then the BPL operator must notify the utility in writing of all disclosure of information to the FCC and/or other limited disclosure to any other parties.

Interference Mitigation

Instead of such needlessly broad interference mitigation techniques as pre-emptive frequency notching, PLCA supports the FCC's Adaptive Interference Mitigation techniques, which enable the BPL operator to selectively reduce and or notch frequencies that have been proven to cause harmful interference in the BPL operator's deployment area. Should the Commission decide to require pre-emptive notching of selected frequencies, PLCA urges the FCC to define a waiver process to allow use of some or all of the notched frequencies in places such as underserved areas or areas in which there are no licensed users of the frequency(ies).

Equipment Authorization

It is absolutely essential that the manufacturer, not the BPL operator or the electric utility whose wires support the BPL service, be responsible for obtaining FCC equipment authorization and for otherwise being the responsible entity for compliance with FCC equipment requirements. Imposing equipment authorization requirements on the BPL operator or the electric utility would impose unwarranted additional financial and operational burdens on the BPL operator and remove responsibility from the entity that is most capable of meeting these regulatory obligations.

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Thank you for considering these suggestions, which are offered in the spirit of finding the rational middle ground between the extreme positions that have emerged in this proceeding.

Respectfully submitted,

Power Line Communications Association

By 
Raymond A. Kowalski

Its Counsel

cc: Chairman & Commissioners Offices
FCC Secretary